

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Conf. No.: 3079	:	Group Art Unit: 2161
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Appln. No.: 09/820,054	:	Examiner: Etienne Pierre Leroux
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Filing Date: March 28, 2001	:	Attorney Docket No.: 10397-1U1
	:	
Title:		SYSTEM AND METHOD FOR NETWORK ADMINISTRATION AND LOCAL ADMINISTRATION OF PRIVACY PROTECTION CRITERIA

APPELLANT'S REPLY BRIEF (37 C.F.R. § 1.193)

This Reply Brief is being submitted in response to the Examiner's Answer mailed June 7, 2007 and is being timely filed within the two month period of time set for response.

If any fees associated with this Reply Brief are due, please charge such fees and credit any overcharge to Deposit Account No. 50-1017.

Section (10) of the Examiner's Answer (pages 11-20) includes new points of argument. Appellants' arguments below address only such new points of argument.

1. Appellant did not argue limitations that are not present in the claims

The Examiner asserts on page 11 that “features upon which applicant relies are not recited in the rejected claims(s).” Pages 5-9 of the Appeal Brief painstakingly explains what is taught by each of the applied references, the first paragraph of page 10 explains what the combination of references would disclose (at best), and pages 10-12 identifies exactly what limitations are not disclosed or suggested by any of the applied references. No limitations are being read into the claims to support Appellant’s arguments regarding the deficiency of the applied references.

2. Combination of Walker and Shrader does not disclose or suggest the claimed invention, including exemplary claim 1

The Examiner asserts on page 13 that column 11, lines 25-30 of Walker discloses downloading a “list of sources” to a client machine. The Examiner further admits that this downloaded list is not a list of “cookie file sources,” but that the PATH 118 in Fig. 2 of Shrader discloses a “list of cookie file sources.” The Examiner supports this contention by referring to column 5, lines 35-45 and column 1, lines 20-25 of Schrader. These portions of Shrader merely confirm Appellants’ previous arguments that Schrader fails to make up for the noted deficiencies in Walker, namely, downloading a list of cookie file sources. Nowhere does Shrader disclose or suggest that the data residing in CookieData Table 110 is obtained from a downloaded list. Column 5, lines 35-45 of Schrader reads as follows (underlining added for emphasis):

FIG. 2 shows representative data structures used in this invention. These structures are maintained in system or other memory (e.g., a hard disk). A BasicAuth Table 100 stores entries related to HTTP basic authentication. Each entry contains a number of data columns, including the server or domain name 102, userid 104 and password 106 that should be sent to the server. The realm name and other attributes may be included as well. A CookieData Table 110 stores entries related to cookies stored by the web browser on behalf of given web servers. Each entry contains a number of data columns, including the name 112 and value 114 of the cookie, the date that the cookie expires 116, and the path 118 and domain 120 for which the cookie is valid. Each entry also includes a secure flag 122, indicating if the cookie should be sent as part of a secure transaction, and a blocked flag 124, indicating if the cookie should be sent by the browser to the matching domain and path.

The Appeal Brief fully addresses this new text portion raised by the Examiner. See pages 8-9 of the Appeal Brief which reads as follows (underlining added for emphasis):

Shrader's cookie data display routine is initiated only when a user (client machine) attempts to retrieve a specific URL via a web browser. That is, Shrader's routine is initiated during a normal web surfing session and not as part of a process for downloading a list of cookie file sources in response to a request from a subscriber to send a list of cookie file sources (steps (a) and (b) of claims 1 and 16), or receiving at a client machine a master list of cookie file sources from a service provider (step (c) of claims 7 and 22; step (a) of claims 12 and 27). While Shrader arguably discloses "cookie file source(s)" in column 2, lines 64-67 as highlighted by the Examiner at the bottom of page 2 of the Final Rejection, and as underlined above, this reference to cookie file sources has nothing whatsoever to do with a process for downloading a list of cookie file sources in response to a request from a subscriber to send a list of cookie file sources (steps (a) and (b) of claims 1 and 16), or receiving a master list of cookie file sources from a service provider (step (c) of claims 7 and 22; step (a) of claims 12 and 27). Accordingly, one cannot simply swap out Walker's downloaded list of URL's for Shrader's cookie file sources as asserted in the Final Rejection because Shrader's cookie file sources are not downloaded in the same manner or for the same purpose as Walker's list of URL's.

In the Final Rejection, the Examiner also highlights column 7, lines 10-15 and 30-35 of Shrader, as well as the Cookie Table referred to in Fig. 7, step 405 of Shrader. However, these portions of Shrader merely confirm that Shrader's cookie control process is initiated only when a user (client machine) attempts to retrieve a specific URL via a web browser, and that Shrader's cookie control process has nothing whatsoever to do with a process for downloading a list of cookie file sources in response to a request from a subscriber to send a list of cookie file sources (steps (a) and (b) of claims 1 and 16), or receiving a master list of cookie file sources from a service provider (step (c) of claims 7 and 22; step (a) of claims 12 and 27).

The Examiner's argument can be summarized as follows:

1. Walker discloses downloading a list of sources (e.g., web site URL addresses) to a client machine.
2. Schrader discloses storing a list of cookie file sources at a client machine. (As Appellant discussed above, this list is not downloaded to the client machine, nor is it received from a service provider.)

3. Therefore, it would have been obvious to download a list of cookie file sources to a client machine, or receive at a client machine a master list of cookie file sources from a service provider.

While the Examiner's logic has a simple appeal, it is a textbook example of improper hindsight recreation of Applicant's invention. As argued in the Appeal Brief, Shrader's scheme fails to address one of the purposes of Applicants' invention, namely, to screen cookie files in a client machine by using a list of cookie file sources that is maintained by a server and downloaded to the client machine (claims 1 and 16), and to allow for user editing of the list (claims 7, 12, 22 and 27). Schrader's scheme requires the user to be responsible for cookie management by making all of the decisions regarding which cookie files should be blocked and which cookie files should be allowed. One of the purposes of the present invention is to allow a service provider to provide the bulk of cookie management with the user optionally assisting in the process via a personal trustlist and personal blacklist. Shrader does not disclose or suggest any such arrangement. Instead, Shrader puts the burden of cookie management on users, most of whom have no sophisticated knowledge base to draw upon for making sound decisions regarding cookie management.

On page 14, lines 1-7 of the Examiner's Answer, the Examiner attempts to provide a reason for modifying Walker. However, the Examiner's reasoning is based on an incorrect premise that Shrader discloses a "downloaded list of web site URL addresses." In fact, there is no downloading of any lists in Shrader, and none of the text portions referred to by the Examiner disclose or suggest any such downloading. The remaining explanations provided by the Examiner are thus equally flawed because they are based on a faulty premise.

Appellant does not dispute that Walker and Schrader are in the same art area or that there are compatibilities between them. However, all that the combination of Walker and Schrader would provide is a web site blocking tool that would also allow a user to provide enhanced cookie control for the web sites that are not blocked by Walker's process. Such a combination, however, would still not disclose or suggest the claimed invention.

3. Examiner mischaracterizes Appellant's invention

On page 15, lines 1-7 of the Examiner's Answer, the Examiner explains what he believes to be the "essence" of Appellant's invention. Appellants strongly object to such a

characterization. Appellants have claimed a specific combination of steps that are believed to be novel and unobvious.

Furthermore, the essence of the invention as understood by the Examiner does not even properly capture the claimed invention. The Examiner states that the essence of the invention is to “detect a web site received at a client machine and then decide whether the received web site is on the list of downloaded...web sites.” This is not Appellant’s invention. In fact, this functionality is described in Walker and is also provided by many other software products that block browsers from displaying sites that are inappropriate for children. However, the Examiner correctly deemed Walker to be deficient in meeting all of the claim limitations. The essence of the invention thus inherently cannot meet the Examiner’s characterization, otherwise the claims could be rejected as being anticipated by Walker.

4. The highlighted text portions of the applied references do not support the rejection

The substance of all of the highlighted text portions on pages 15-16 of the Examiner’s Answer has been discussed in the Appeal Brief and in this Reply Brief and thus will not be discussed any further.

5. The Examiner’s arguments regarding claims 7, 12, 16, 22 and 27 raise no new issues

The Examiner’s rationale for rejecting claims 7, 12, 22 and 27 is the same as claim 1 with respect to the limitations directed to a list of cookie file sources. See the last sentence in each of the paragraphs regarding these claims on pages 17, 19 and 20 of the Examiner’s Answer. The Examiner’s rationale for rejecting claim 16 is identical to the rationale given regarding claim 1 and which was also discussed above. Accordingly, no further discussion regarding these claims is necessary.

6. The claims are not obvious in view of KSR International Co. v. Teleflex, Inc.

In KSR International Co. v. Teleflex, Inc. (550 U.S. ____ (2007)), the Supreme Court stated that the motivation/suggestion/teaching test is merely one test that can be applied to an obviousness inquiry. For the reasons discussed above, the Examiner’s rejection clearly fails this test. Furthermore, none of the other tests sanctioned by the Supreme Court in Teleflex for

determining obviousness are relevant to this case, and the Examiner has not set forth any facts or evidence to support any of the other tests.

Even if the Examiner's rejection is based on the obviousness of modifying Walker based on Schrader, or is based on the combination of these references, the Examiner has still failed to identify the reason that would have prompted a person of ordinary skill in the art to combine the prior art elements so as to achieve the claimed invention. The closest that the Examiner has come to providing any reasons for modifying Walker is discussed on page 13, line 18¹ through page 14, line 7 of the Examiner's Answer. Two reasons appear to be provided. The first reason reads as follows:

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Walker to include a list of cookie file sources as taught by Shrader for the purpose of reviewing the cookie files received at the client's machine for the purpose of controlling cookies planted/stored on a client's machine by a web site [Shrader: col 2, lines 60-63, the cookie display routine could allow the user to view, edit or delete cookie values]. (page 13, line 18 through page 14, line 3 of the Examiner's Answer)

This reason is precisely the kind of reason that constitutes impermissible hindsight recreation of Applicant's invention. Shrader's cookie display routine is a manual process performed by a user and does not use a downloaded list of cookie file sources. That is not Appellant's claimed invention. To build Appellant's invention, the Examiner has impermissibly altered the manner of operation of Shrader so that the contents of the Shrader's CookieData Table 110 is now obtained from a downloaded list. Presumably, this would occur by modifying Walker to download a list of cookie file sources, instead of its intended manner of operation which is to download a list of URL's. Again, this modification would destroy the intended manner of operation of Walker, which is to allow a browser to access only web pages previously authorized by a parent or supervisor of the user (see line 1 of Walker's Abstract). Walker has nothing whatsoever to do with cookies, or cookie control, and does not even mention cookies anywhere in its disclosure.

The second reason reads as follows (underlining added for emphasis):

¹ See the sentence that reads "It would have been obvious..."

Furthermore, Schrader discloses using the downloaded list of web site URL addresses to detect a cookie file received at the user's machine by comparing the URL address of the received cookie file with at least one URL address on the downloaded list of web site URL addresses [col 2, lines 64-67, block all cookies from a particular site] (page 14, lines 3-7 of Examiner's Answer)

This reason is based on an incorrect premise that Shrader discloses a "downloaded list of web site URL addresses," as also discussed above. In fact, there is no downloading of any lists in Shrader, and none of the text portions referred to by the Examiner disclose or suggest any such downloading.

Accordingly, none of the Examiner's reasons pass muster under a Teleflex analysis.

6. Conclusion

None of the old or new arguments presented in the Examiner's Answer properly rebut the arguments for patentability presented in the Appeal Brief. Accordingly, Appellant respectfully submits that pending claims 1-30 are patentable over the prior art applied by the Examiner.

AN ORAL HEARING IS REQUESTED.

A request for Oral Hearing was filed concurrently with this Reply Brief.

Respectively submitted,

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